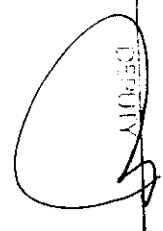


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RECEIVED
AND FILED**UNITED STATES DISTRICT COURT****DISTRICT CV-S-02-1268-KJD-LRL**

12 EQUAL EMPLOYMENT
 13 OPPORTUNITY COMMISSION,

14 Plaintiff,

15 vs.

16 HOME DEPOT U.S.A., INC., d/b/a
 17 Home Depot,

18 Defendant.

COMPLAINT

- **CIVIL RIGHTS**
- **EMPLOYMENT**
- DISCRIMINATION**

(42 U.S.C. §§ 2000e, et seq.)

JURY TRIAL DEMAND**NATURE OF THE ACTION**

19 This is an action under Title VII of the Civil Rights Act of 1964, and Title I
 20 of the Civil Rights Act of 1991 to correct unlawful employment practices on the
 21 basis of Race and to provide appropriate relief to Roderick A. Birdis ("Mr.
 22 Birdis"). Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
 23 1331, 1337, 1343 and 1345. Plaintiff Equal Employment Opportunity
 24 Commission (the "Commission") alleges that Mr. Birdis was qualified for the
 25 positions he applied for with Defendant, Home Depot U.S.A., Inc., d/b/a Home
 26 Depot ("Defendant Employer"), yet was repeatedly denied and refused promotion
 27 by Defendant Employer because of his race (African American).

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precedent to the institution of this lawsuit have been fulfilled.

8. The Commission alleges that, since at least on or about April 2001, Defendant Employer has engaged in unlawful employment practices at its of Las Vegas, Nevada locations in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) by subjecting Mr. Birdis to employment discrimination based upon his race (African American). Specifically, Defendant Employer repeatedly failed and refused to promote Mr. Birdis, even though he was qualified for the positions. Defendant Employer instead chose and promoted less qualified Caucasian applicants for the positions. Defendant Employer's articulated reasons for not promoting Mr. Birdis were pretextual in nature.

9. The effect of the practices complained of above has been to deprive Mr. Birdis of equal employment opportunities and otherwise adversely affect his status as an employee, because of his race (African American) under Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a).

10. The unlawful employment practices complained based upon the facts above were intentional.

11. The unlawful employment practices complained of above were done with malice or with reckless indifference to the federally protected rights of Mr. Burdis.

12. As a direct and proximate result of the aforesaid acts of Defendant, Mr. Birdis has suffered emotional pain, suffering, inconvenience, loss of enjoyment of life, humiliation and damages, according to proof.

14. As a direct and proximate result of the aforesaid acts of Defendant, Mr. Birdis suffered a loss of earnings and other pecuniary losses in an amount according to proof.

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PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of race.

B. Grant a mandatory injunction requiring Home Depot to promote Mr. Birdis at its Las Vegas store location, as the Court deems necessary and proper in the public interest and to make Mr. Birdis whole.

C. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for African Americans, and which eradicate the effects of its past and present unlawful employment practices.

D. Order Defendant Employer to make whole Mr. Birdis by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, discrimination on the basis of race.

E. Order Defendant Employer to make whole Mr. Birdis by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial.

F. Order Defendant Employer to make whole Mr. Birdis by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including, but not limited to emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

G. Order Defendant Employer to pay Mr. Birdis punitive damages for its malicious and reckless conduct based upon the facts above, in amounts to be

1 determined at trial.

2 H. Grant such further relief as the Court deems necessary and proper in
3 the public interest.

4 I. Award the Commission its costs of this action.

5 JURY TRIAL DEMAND

6 The Commission requests a jury trial on all questions of fact raised by its
7 complaint.

8 Respectfully submitted,

9 Nicholas Inzeo, Esquire
10 Acting Deputy General Counsel
11 Gwendolyn Reams, Esquire
Associate General Counsel

12 EQUAL EMPLOYMENT
13 OPPORTUNITY COMMISSION
14 Anna Y. Park, Regional Attorney
Gregory McClinton, Trial Attorney

15 Date: September 28, 2002

16 By: 

17 Anna Y. Park
18 Regional Attorney
19 Attorneys for Plaintiff
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